

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Ray Garcia,)
)
Petitioner,) Case No. 3:10-cv-76
)
-vs-)
)
Wardon Redmann,) **ORDER ADOPTING REPORT AND**
) **RECOMMENDATION**
)
Respondent.)

The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Ray Garcia's petition for habeas relief be dismissed with prejudice (Doc. #8). No party has objected to the Report and Recommendation within the deadline established by the magistrate judge.

The Court has reviewed the Report and Recommendation along with the entire file and finds the magistrate judge's analysis is correct. The Court hereby adopts the Report and Recommendation in its entirety. For the reasons stated therein, Garcia's motion for a writ of habeas corpus (Doc. #3) is **DISMISSED WITH PREJUDICE**.

Further, based upon the entire record before the Court, dismissal of the petition is not debatable, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings. Therefore, a certificate of appealability will not be issued by this Court. See Miller-El v. Cockrell, 537 U.S. 322, 327 (2003); Tiedeman v. Benson, 122 F.3d 518, 520-22 (8th Cir. 1997). If Garcia desires further review of his petition, he may request the issuance of a certificate of appealability by a circuit judge of the Eighth Circuit Court of Appeals in

accordance with Tiedeman, 122 F.3d at 520-22.

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 6th day of October, 2010.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court